



# WELFARE-TO-WORK

HEALTH AND HUMAN SERVICES AGENCY



ALL-COUNTY LETTER  
Number: 02-05

DIRECTIVE  
Number: WtWD02-1

Date: January 25, 2002  
69:12:gl:5267

TO: LOCAL WORKFORCE INVESTMENT AREAS  
WELFARE-TO-WORK 15 PERCENT SUBGRANTEES  
DOL WELFARE-TO-WORK 25 PERCENT GRANTEEES  
COUNTY WELFARE DEPARTMENT DIRECTORS  
EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD) STAFF  
WORKFORCE DEVELOPMENT BRANCH STAFF  
COUNTY CalWORKs WELFARE-TO-WORK COORDINATORS  
FOSTER CARE INDEPENDENT LIVING PROGRAM COORDINATORS  
COUNTY CHILD WELFARE SERVICES MANAGERS  
COUNTY CalWORKs PROGRAM SPECIALISTS  
FAMILY SUPPORT/CHILD SUPPORT PROGRAM ADMINISTRATORS

SUBJECT: GRANT INDIVIDUAL DEVELOPMENT ACCOUNTS

## EXECUTIVE SUMMARY:

### Purpose:

This Joint All County Letter/Directive (JACL/D) provides policy guidance for creating and managing WtW Grant funded Individual Development Accounts (IDAs) established under the provisions of the United States Code (USC) Section 404(h) of the Social Security Act (Act). This document includes clarification of the differences between IDAs and asset building accounts (ABAs). It also provides how these two accounts may affect WtW Grant participants' eligibility for or the receipt of benefits under the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

### Scope:

The JACL/D applies to county welfare departments (CWD, Local Workforce Investment Boards, 15 Percent subgrantees and 25 Percent grantees and should be referred to for guidance when establishing an IDA and an ABA funded with WtW Grant and/or State WtW Grant match funds.

### Effective Date:

This JACL/D is effective immediately.

## REFERENCE:

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Social Security Act, Title IV, Part A, Section 401 et al. (August 22, 1996)

- Balanced Budget Act of 1997, Social Security Act, Title IV, Part A, Section 403(a)(5), Welfare-to-Work Grants (August 5, 1997)
- Title 45 Code of Federal Regulations (CFR) Part 260, et al., Temporary Assistance for Needy Families (TANF): Final Rule (April 12, 1999)
- Title 20 CFR Part 645.220(f): Final Rule (January 11, 2001)
- Welfare and Institutions Code Section 11155.2(c)
- U.S. Department of Labor (DOL) Employment and Training Administration's WtW Questions and Answers (Q&A), Allowable Activities, [www.doleta.gov](http://www.doleta.gov)
- U.S. Department of Health and Human Service (DHHS), Administration for Children and Families, Q&A No. 5, [www.acf.dhhs.gov](http://www.acf.dhhs.gov)
- All County Letter No. 01-76 (November 2, 2001)

## **STATE-IMPOSED REQUIREMENTS:**

The JACL/D contains some State-imposed requirements. Such requirements are stated in ***bold, italic*** type.

## **FILING INSTRUCTIONS:**

Retain this document until further notice.

## **BACKGROUND:**

Title 20 CFR Part 645.220(f) allows WtW Grant funds to be used to establish IDAs for WtW Grant participants. However, WtW Grant funded IDAs must also meet the requirements of USC Section 404(h) of the Act. There has been some delay in providing guidance to local operating entities regarding the formation of WtW Grant IDAs pending State policy interpretation about IDAs established for WtW Grant participants who are also CalWORKs recipients. The State has determined that WtW Grant funds (formula, match and competitive grants) may be used as match for Section 404(h) IDAs for all WtW Grant enrollees including CalWORKs recipients.

The DHHS recently issued guidance allowing the use of TANF funds for setting up other IDA-type accounts called ABAs. Most of the qualified purposes for establishing ABAs do not meet the qualified purposes required by USC Section 404(h) of the Act for establishing IDAs.

## **OVERVIEW OF THE POLICIES AND PROCEDURES:**

### **Section 404(h) IDAs**

All WtW Grant participants who are enrolled in the WtW Grant program are eligible to have an IDA established using WtW Grant formula, 25 Percent Competitive or State WtW Grant match funds. The IDAs may be set up for a non-custodial parent's child if the child meets the eligibility criteria for WtW and/or CalWORKs (e.g., they have their own case) and the purpose is set up in accordance with Section 404(h) of the Act. Additionally, the WtW Grant operating entity providing the match funds must deem the IDA to be an appropriate and reasonable use of WtW Grant funds. It is expected that such instances would be limited.

- IDA Qualified Purposes

USC Section 404(h)(2)(B) of the Act states that an IDA may be established only for the following purposes:

1. POSTSECONDARY EDUCATIONAL EXPENSES—Post-secondary educational expenses paid from an IDA directly to an eligible educational institution;
2. FIRST HOME PURCHASE—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer and if paid from an IDA directly to the persons to whom the amounts are due; and/or
3. BUSINESS CAPITALIZATION—Business capitalization expenses paid from an IDA directly to a business capitalization account, which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses.

- Qualified Entities

Section 404(h) IDAs must be developed as trusts created or organized in the United States and funded through periodical contributions by individuals for whom the accounts are established and matched by or through a “qualified entity.” A qualified entity is defined as either of the following:

1. A not-for-profit organization described in Section 501(c)(3) of the Internal Revenue Code (IRC) of 1986 and exempt from taxation under Section 501(a) under IRC; or
2. A state or local government agency acting in cooperation with a not-for-profit organization described above.

- Withdrawal of Funds

Once established, IDA funds can be withdrawn only for one of the qualified purposes specified above under “IDA Qualified Purposes.” Except, the individual may withdraw his or her contribution at anytime. If the individual's withdrawal is for purposes other than IDA qualified purposes, the individual will lose an equal amount of match. For CalWORKs recipients, the funds withdrawn for unapproved purposes will no longer be considered exempt as income or resources for CalWORKs eligibility and grant determinations.

IDA Contributions

An individual may only contribute funds derived from earned income to a Section 404(h) IDA. A gift of money given to the individual cannot be deposited in the IDA as earned income. ***The IDA match contributions and the WtW Grant participant's earned income contributed to an IDA should be retained in separate accounts under the trust. This will allow for tracking of the participant's contributions and withdrawals. Participants lose an equal amount of match dollars if they make unapproved withdrawals.***

- Match Contributions

Various funds may be used to match dollars in Section 404(h) IDAs or ABAs established under other federal or state authorities. The match funds may come from sources including, but not limited to, foundations, not-for-profit organizations, the WtW Grant program, county CalWORKs Performance Incentive funds or other organizations that meet the definition of a “qualified entity.” Private for-profit entities may not directly fund an IDA, but they may donate funds to a not-for-profit organization for the purpose of funding IDAs. Match contributions should be deposited in a separate account in the trust and distributed at the time of purchase for the qualified purpose. Payment for the purchase is made directly to the vendor or service provider.

- Federal Exemption

Federal authority found under USC Section 404(h) of the Social Security Act provides that funds in IDAs that are established for CalWORKs recipients may be exempted from the determination of eligibility and grant for any federal means-tested program. The CalWORKs eligibility worker must obtain a release from the individual account holder when seeking verification that the account meets the exemption criteria. The WtW Grant operating entities responsible for management of WtW Grant IDAs must also ensure that these accounts meet the provisions of Section 404(h) of the Act.

Under existing federal and state statutes, only two types of IDAs currently meet the exemption criteria for the CalWORKs program. The first type is an account established with WtW Grant funds and administered under the guidance of EDD jointly with a not-for-profit organization.

The second type is an account created using county CalWORKs Performance Incentive funds and administered jointly with a not-for-profit organization. To be automatically exempt from the CalWORKs eligibility and grant amount determination, both types of accounts must meet all of the provisions of Section 404(h) of the Act.

- Duration of Exemption

All funds, including interest and match funds, retained in Section 404(h) IDAs are disregarded when determining CalWORKs eligibility and the grant amount during any period in which the individual maintains or contributes to the IDA. However, if a CalWORKs recipient withdraws any or all of the funds he or she has contributed to the IDA without good cause or for a purpose other than the allowable purpose of the IDA, the exemption ends and the funds withdrawn are considered an available resource for the purpose of determining CalWORKs eligibility or grant amount.

### **Asset-Building Accounts**

For clarity, accounts established using provisions that differ from USC Section 404(h) will be referred to as asset buildings accounts (ABAs). Currently, there is no statutory or regulatory authority to *automatically* exempt ABAs from eligibility and grant determination for CalWORKs recipients. Therefore, funds that are not exempt from

consideration under the provisions of Section 404(h) are to be evaluated under the current resource determination and valuation rules. Since welfare reform, the CalWORKs program follows the Food Stamp Program rules for evaluating personal property and resources.

Refer to DOL's WtW Q&As, Allowable Activities, No. AA41 and AA44 on the Internet at: [wtw.doleta.gov/q&a/allowable.asp](http://wtw.doleta.gov/q&a/allowable.asp) to obtain more information about WtW Grant IDAs and ABAs.

***NOTE: To ensure that CalWORKs eligibility and/or grant amounts are not affected, local WtW Grant operating entities must work with CWDs when setting up ABAs to purchase an automobile or other items that are not a qualified purpose under Section 404(h).***

***The ABA match contributions and the WtW Grant participant's contribution should be retained in separate accounts in the same trust (refer to IDA Contributions on page 4).***

#### **ACTION:**

Requirements in this JACL/D are effective the date it is issued. The WtW Grant operating entities and CWDs must review all existing USC Section 404(h) IDA policies for consistency within these guidelines for the use of WtW Grant funds.

#### **INQUIRIES:**

If you have questions regarding WtW Grant IDAs or ABAs, contact your California Department of Social Services (CDSS) or the EDD WtW Grant Regional Specialists or Pat Loader, CDSS WtW Grant Project Analyst, at (916) 654-1770. Please direct CalWORKs eligibility questions that apply to IDAs or ABAs to the CDSS CalWORKs Eligibility Bureau at (916) 654-1322.

/S/ BRUCE WAGSTAFF  
Deputy Director  
Welfare-to-Work Division, CDSS

/S/ JIM CURTIS, Chief  
Program Development and Management  
Division, EDD